

United States District Court
Northern District of California

UNITED STATES OF AMERICA,

Plaintiff,

v.

APPROXIMATELY \$22,520 IN UNITED
STATES CURRENCY,

Defendant.

Case No.: 13-05107-JSW (KAW)

ORDER REQUIRING FURTHER BRIEFING
REGARDING PLAINTIFF'S MOTION FOR
DEFAULT JUDGMENT; ORDER
VACATING APRIL 3, 2014 HEARING

In this *in rem* forfeiture action, Plaintiff United States moves for default judgment against Defendant Approximately \$22,520 in United States Currency, pursuant to 21 U.S.C. 881(a)(6).

The motion for default judgment was referred to the undersigned for report and recommendation.

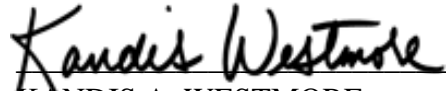
Upon review of the moving papers, the Court seeks further briefing on whether the verification accompanying the complaint is fatally defective under California Code of Civil Procedure sections 446 and 2015.5 for failure to specify the place the declaration was executed within the State of California. (*See* Verification by Shameka Jackson-Amacker, Compl. at 5.) Verification is a threshold issue, because the Government's failure to properly verify the complaint deprives the district court of *in rem* jurisdiction over the subject property. *United States v. \$84,740.00 U.S. Currency*, 900 F.2d 1402, 1405-06 (9th Cir.1990), rev'd on other grounds by *Republic Nat'l Bank v. United States*, 506 U.S. 80, 89 (1992). "When a party fails to properly verify a complaint, the appropriate procedure is for the district court to dismiss the complaint without prejudice" and to allow the defective verification to be corrected by amendment. *United States v. \$84,740.00 U.S. Currency*, 900 F.2d at 1406 (citing *United States v. \$38,000.00 Dollars in U.S. Currency*, 816 F.2d 1538, 1547-49 (11th Cir. 1987)).

Accordingly, the April 3, 2014 hearing date on the motion for default judgment is VACATED and the Government shall file its supplemental brief, not to exceed 10 pages, on or

1 before **April 2, 2014**. Upon review of the supplemental brief, the Court will decide whether a
2 hearing is necessary or if the motion for default judgment may be resolved without oral argument
3 pursuant to Civil L.R. 7-1(b).

4 IT IS SO ORDERED.

5 Dated: March 18, 2014


KANDIS A. WESTMORE
United States Magistrate Judge

United States District Court
Northern District of California